

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANNETTE BAKAY and RICHARD  
BAKAY, wife and husband,

Plaintiffs,

v.

LAURIE A. YARNES, in her individual and  
official capacity as CLALLAM COUNTY  
ANIMAL CONTROL OFFICER; LAURIE  
A. YARNES and TODD A. YARNES, a  
marital community; TRACEY KELLAS, in  
her individual and official capacity as  
CLALLAM COUNTY ANIMAL  
CONTROL OFFICER, and RANDOLPH J.  
KELLAS, husband and wife, a marital  
community; CLALLAM COUNTY ex rel.  
CLALLAM COUNTY SHERIFF'S OFFICE  
and CLALLAM COUNTY ANIMAL  
CONTROL, a Washington municipal  
corporation; CHARLES B. SCHRAMM, in  
his individual and official capacity as  
PRESIDENT OF HUMANE SOCIETY OF  
CLALLAM COUNTY (UBI 601-141-356),  
a Washington nonprofit corporation;  
CHARLES B. SCHRAMM and JANE DOE  
SCHRAMM, a marital community;  
HUMANE SOCIETY OF CLALLAM  
COUNTY (UBI 601-141-356), a  
Washington nonprofit corporation; and  
DOES 1-10,

Defendants.

Case No. C04-5803RJB

ORDER DENYING PLAINTIFFS'  
MOTION FOR COMMISSION TO  
ISSUE OUT OF STATE  
SUBPOENA

1 This matter comes before the Court on Plaintiffs' Motion for Commission to Issue Out-  
2 of-State Subpoena (Dkt. 195). The Court has considered the pleadings filed in support of and in  
3 opposition to the motion and the file herein.

4 Plaintiffs request that this Court ask the United States District Court for the District of  
5 Oregon to issue a subpoena, ordering Loren Kellogg and Thomas Hamilton to appear as  
6 witnesses at trial here in Washington. Plaintiffs also request an order declaring that Defendants  
7 are responsible for travel and similar costs, should Plaintiffs prevail in this matter. Alternately,  
8 Plaintiffs seek leave to elicit trial testimony of these witnesses by telecast to reduce expenses.

9 According to Plaintiffs' motion, Hamilton and Kellogg formerly worked for Defendant  
10 Clallam County Humane Society, and both had direct interactions with former Humane Society  
11 Executive Director Judy Nikodym, who is now deceased. Plaintiffs contend that these witnesses  
12 possess information about, among other things, Nikodym's treatment of the cats and the  
13 Humane Society's loss of the cats' bodies after they were euthanized. Plaintiffs' counsel states  
14 that he located these witnesses after the discovery period was completed.

15 In their motion, Plaintiffs state "[w]hile the Bakays fully anticipate that these witnesses  
16 will testify voluntarily, in order to ensure their attendance and their fair compensation, the  
17 Bakays are proactively seeking court involvement." Dkt. 195, at 3.

18 Defendants point out that the testimony of these witnesses, which may involve hearsay  
19 and other inadmissible testimony, is a subject of some contention between the parties, and that  
20 Defendants plan to address these issues in motions in limine prior to trial.

21 After a review of the record, the Court finds that there is no substantial need for the  
22 Oregon court to become involved at this time. Further, the admissibility of the testimony should  
23 be addressed in the appropriate motions in limine before the Court "proactively" becomes  
24 involved in issuing such a subpoena, which may impose a hardship on the parties and an  
25 unnecessary burden on the Oregon court.  
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